

Strategic Goal: A Credible Deterrent to Pollution and Greater Compliance with the Law

EPA will ensure full compliance with the laws intended to protect human health and the environment.

BACKGROUND AND CONTEXT

Protecting the public and the environment from risks posed by violations of environmental requirements is, and always has been, basic to EPA's mission. Many of America's environmental improvements over the last 25 years are attributable to a strong set of environmental laws

and an expectation of compliance with those laws. EPA's strong and aggressive enforcement program has been the centerpiece of efforts to ensure compliance, and has achieved significant improvements in human health and the environment.

MEANS AND STRATEGY

Many of the environmental improvements in this country during the past three decades can be attributed to a strong set of environmental laws and EPA's aggressive enforcement of them. Due to the breadth and diversity of private, public, and federal facilities regulated by EPA under various statutes, the Agency needs to target its enforcement and compliance assurance activities strategically to address the most significant risks to human health and the environment and to ensure that certain populations do not bear a disproportionate environmental burden.

A strong enforcement program identifies noncompliance problems, punishes violators, strives to secure a level economic playing field for law-abiding companies, and deters future violations.

EPA's continued enforcement efforts will be strengthened through the development of measures to assess the impact of enforcement activities and assist in targeting high priority areas.

State, Tribal and local governments bear much of the responsibility for ensuring compliance, and EPA works in partnership with them and other Federal agencies to promote environmental protection. Further, EPA cooperates with other nations to enforce and ensure compliance with international agreements affecting the environment. At the Federal level, EPA addresses its responsibilities under the National Environmental Policy Act (NEPA) by seeking remedies for potentially adverse impacts of major actions taken by EPA and other Federal agencies.

The Agency's enforcement and compliance assurance program uses compliance assistance and incentives tools to enhance voluntary compliance with regulatory requirements and reduce adverse public health and environmental problems.

Because government resources are limited, maximum compliance requires the active efforts of the regulated community to police itself. EPA supports the regulated community by assuring that requirements are clearly understood and by helping industry find cost-effective options to comply through the use of pollution prevention and innovative technology.

EPA will continue to explore options for: encouraging self-directed audits and disclosure; measuring and evaluating the effectiveness of Agency programs in improving compliance rates; providing information and compliance assistance to the regulated community; and developing innovative approaches to meeting environmental standards through better communication, cooperative approaches and application of new technologies.

STATUTORY AUTHORITY

- 1983 La Paz Agreement on US/Mexico Border Region
- Clean Air Act sections 113, 114, and 303 (42 U.S.C. 7413, 7414, 7603)
- Clean Water Act (CWA) sections 308, 309, and 311 (33 U.S.C. 1318, 1319, 1321)
- Comprehensive Environmental Response, Compensation, and Liability Act sections 106, 107, 109, and 122 (42 U.S.C. 9606, 9607, 9609, 9622)
- Emergency Planning and Community Right-to-Know Act sections 325 and 326 (42 U.S.C. 11045, 11046)
- Federal Insecticide, Fungicide, and Rodenticide Act sections 8, 9, 12, 13, and 14 (7 U.S.C. 136f, 136g, 136j, 136k, 136l)
- National Environmental Policy Act (NEPA)
- North American Agreement on Environmental Cooperation
- Ocean Dumping Act sections 101, 104B, 105, and 107 (33 U.S.C. 1411, 1414B, 1415, 1417)
- Resource Conservation and Recovery Act sections 3007, 3008, 3013, and 7003 (42 U.S.C. 6927, 6928, 6934, 6973)
- Safe Drinking Water Act section 1413, 1414, 1417, 1422, 1423, 1425, 1431, 1432, 1445 (42 U.S.C. 300g-2, 300g-3, 300g-6, 300h-1, 300h-2, 300h-4, 300i, 300i-1, 300j-4)
- Toxic Substances Control Act (TSCA) sections 11, 16, and 17 and TSCA Titles II and IV (15 U.S.C. 2610, 2615, 2616, 2641-2656, 2681-2692)

Resource Summary

(Dollars in thousands)

	FY 1999 Pres. Budget	FY 1999 Enacted
A Credible Deterrent to Pollution and Greater Compliance with the Law	\$332,733.8	\$319,390.3
Enforcement Tools to Reduce Non-Compliance	\$283,209.4	\$272,965.9
EPM	\$190,770.5	\$181,844.0
S&T	\$8,662.8	\$8,583.9
STAG	\$67,079.3	\$67,884.4
SF	\$16,696.8	\$14,653.6
Increase Use of Auditing, Self-Policing Policies	\$49,524.4	\$46,424.4
EPM	\$45,700.3	\$43,940.3
S&T	\$97.9	\$0.0
STAG	\$3,333.4	\$2,214.2
SF	\$392.8	\$269.9
Total Workyears:	2,559.3	2,554.4

Strategic Objective: Enforcement Tools to Reduce Non-Compliance

Key Programs

(Dollars in thousands)

	1999 Pres Bud	1999 Enacted
RCRA State Grants	\$43,537	\$43,223
Compliance Monitoring	\$65,015	\$56,839
Civil Enforcement	\$86,821	\$83,090
Criminal Enforcement	\$35,412	\$33,787
Compliance Assistance and Centers	\$0	\$37
Enforcement Training	\$5,086	\$4,436
State Pesticides Enforcement Grants	\$18,392	\$19,512
State Toxics Enforcement Grants	\$5,150	\$5,150

Annual Performance Goals and Measures

INCREASE COMPLIANCE

By 1999: Deter non-compliance by maintaining levels of field presence and enforcement actions, particularly in high risk areas and/or where populations are disproportionately exposed. In 1999, EPA will conduct 15,000 inspections and undertake 2,600 enforcement actions.

Performance Measures:

Target:

EPA Inspections

15,000 Inspections

Baseline: The number of inspections conducted annually has remained fairly consistent in recent years. This information is the basis for the 1999 projections, with adjustments made for changes in resources levels. In 1999, the enforcement program will target 50% of its inspections to priority areas. These areas will be identified in an internal guidance document which sets forth specific priorities for 1999 and forms the basis for this calculation.

TARGET HIGH PRIORITY AREAS

By 1999: Target high priority areas for enforcement and compliance assistance and complete baseline data assessment in major databases needed to measure quality of key indicators of compliance. The Agency will identify five high priority areas and improve 2 of their data systems.

Performance Measures:

Data system improve. To capture chgs to 98 base

Target:

2 Data Systems

Baseline: No baseline established for FY 1999.

ASSIST STATES AND TRIBES

By 1999: Assist states and tribes with their enforcement and compliance assurance and incentive programs. EPA will provide specialized assistance and training, including 83 courses, to state and tribal officials to enhance the effectiveness of their programs.

Performance Measures:

Specialized Asst. & Training

Target:

83 Courses

Baseline: 89 training sessions in FY 97.

Strategic Objective: Increase Use of Auditing, Self-Policing Policies

Key Programs

(Dollars in thousands)

	1999 Pres Bud	1999 Enacted
Project XL	\$2,912	\$2,905
Common Sense Initiative	\$1,086	\$1,083
Compliance Assistance and Centers	\$24,376	\$23,178
Compliance Incentives	\$4,203	\$4,076
NEPA Implementation	\$9,521	\$9,402
State Pesticides Enforcement Grants	\$1,119	\$1,119
State Toxics Enforcement Grants	\$2,214	\$0

Annual Performance Goals and Measures

COMPLIANCE INCENTIVES

By 1999: Increase regulated community's use of compliance incentives and their understanding of, and ability to comply with, regulatory requirements. The Agency will cont. to operate 9 small business compl. asst. centers and will complete sector notebooks, guides, and other outreach materials begun in FY98.

Performance Measures:

Target:

Compl. Assistance Centers in Oper.

9 Centers

Compliance Tools Development

5 Sector Guides

Fed Fac Mgt Reviews

15 Reviews

Baseline: The Enforcement and Compliance Assurance program collects information from the regions annually on how many facilities are being reached through compliance assistance efforts. In 1997, EPA conducted 98,830 activities across all sectors & statutes & reached 342,310 facilities. The number of compliance assistance tools developed in 1997 was 1,190.

EXTERNAL FACTORS

EPA's enforcement program's ability to meet its annual performance goals may be affected by a number of factors. Projected performance would be impacted by natural catastrophes, such as major floods or significant chemical spills, that require a redirection of enforcement resources to address immediate environmental threats.

Many of the targets are predicated on the assumption that state and tribal partners will continue or increase their levels of enforcement and compliance work.

If these assumptions do not come to fruition, EPA's resources may be needed to cover priority areas. In addition, several EPA targets rely on the Department of Justice (DOJ) to accept and execute case loads. The success of EPA's activities hinge on the availability and applicability of technology and information systems.

Finally, the regulated community's willingness to make decisions to comply with the law will

greatly influence EPA's ability to meet its performance goals.

Other factors such as the number of projects subject to scoping requirements initiated by other federal agencies, the number of draft/final documents (Environmental Assessments and Environmental Impact Statements) submitted to EPA for review, streamlining requirements of Transportation Equity Act for the 21st Century (TEA-21), and the responsiveness of other federal agencies to environmental concerns raised by EPA may also impact the Agency's ability to meet its performance goals.

The Agency's ability to address issues under the National Environmental Policy Act (NEPA) may be significantly affected by the number of project proposals submitted to EPA for funding or permits that require NEPA compliance.

VERIFICATION AND VALIDATION OF PERFORMANCE MEASURES

The following are databases that contain baseline performance information and their sources for the enforcement and compliance assurance program:

- (1) National Compliance Data Base (NCDB) / FIFRA/TSCA Tracking system (FTTS) - EPA Headquarters (HQ), EPA regions, and states.
- (2) DOCKET - EPA HQ and regions
- (3) Permit Compliance System (PCS) - EPA regions and states
- (4) FIFRA Section Seven Tracking System (SSTS) - EPA regions
- (5) FIFRA Laboratory Inspection Study Audit (LISA) - EPA HQ and regions

- (6) Pesticide Registration Enforcement System (PRES) - EPA HQ
- (7) Waste Import Tracking System (WITS) - EPA regions
- (8) CERCLIS - EPA regions
- (9) Integrated Data for Enforcement Analysis (IDEA) - EPA compliance and enforcement data bases and external data sources
- (10) Resource Conservation and Recovery Information System (RCRIS) - EPA regions and states
- (11) Safe Drinking Water Information System (SDWIS) - EPA regions and states
- (12) AIRS Air Facility Subsystem (AFS) - EPA regions and states and locals

(13) Asbestos Contractor Tracking System (ACTS)/ National Asbestos Registry System (NARS) - EPA regions and states

(14) Docket - EPA HQ and regions

(15) Environmental Review Tracking System (ERTS) - EPA regions and other Federal agencies.

While specific data entry/QC practices may vary by individual system, each system has been developed in accordance with Office of Information Resources Management (OIRM) Lifecycle Management Guidance. The systems incorporate data validation processes and include internal screen audit checks and verification, detailed system and user documentation, data quality audit reports, third party testing reports and detailed report specifications for showing how report data are calculated. EPA is also developing and implementing detailed system specific Quality Management Plans for all its systems. These plans will include development of Data Quality Objectives, Quality Assurance Project Plans and Standard Operating Procedures. The enforcement program conducted data evaluation and implement improved processes during 1998 and 1999 for enforcement data related to anticipated environmental outcomes.

Continuous and accurate data entry to the national data systems is crucial to EPA's ability to assess compliance with environmental laws and regulations. Questions have been raised -- internally and externally -- about the quality and completeness of the data in the systems as well as the ability of our existing systems to meet our data needs. Differences in the definitions of noncompliance applied by state agencies and/or state failure to report to EPA in a timely and comprehensive fashion affect EPA's ability to determine compliance patterns across the national program. However, many state and EPA staff have noted difficulty in using the systems and that the data are not useful for program implementation. Some of the data limitations reflect systems problems -- for example, enforcement systems are on multiple platforms and use different software, many of which are

technologically obsolete and difficult to use. Further, the incompatible database structures and designs make effective multi-media analysis extremely difficult and provide questionable results. Differences in data definitions within each system make it difficult to link facility data for all media programs.

With significant state participation, EPA is working on several projects to obtain more comprehensive and accurate compliance information for the universe of regulated entities:

- The National Performance Measures Strategy, intended to identify and implement an enhanced set of performance measures for EPA's enforcement and compliance program, will provide new, more detailed information on levels of compliance in regulated populations and enhanced data on environmental and public health improvements from enforcement efforts.
- For five key industrial sectors, the Sector Facilities Indexing Project (SFIP) provides environmental and background data, including numbers of inspections, compliance with Federal regulations, enforcement actions taken, chemical releases and spills, location and production capacity, and surrounding population.
- Other sector-based initiatives implemented in partnership with industry, including root cause analyses projects, are designed to provide more detailed accounts of inspection and enforcement activity over time, violations by media and by specific pollutants released, and the causes of these violations.
- The Enforcement and Compliance Information (ECI) program, a long-range initiative to re-engineer EPA's approach to integrated information, is intended to improve data quality and its uses and to improve public access and understanding of enforcement and compliance data.

- The Quality Management Plan (QMP) project will establish system specific data quality objectives which specify how data will be used and limits on decision errors. QMPs will involve developing quality assurance project plans to document how quality assurance and quality control activities will be implemented, setting standard operating procedures for assessing data quality; and conducting quality reviews to assess progress in meeting our goals. QMPs are underway for the NCDB and RCRIS systems and were completed in 1999 for PCS, AIRS and DOCKET.

The enforcement program will also undertake modernization design and will complete the concept and design phase of the General Enforcement Management System.

A number of external reports and internal reviews have described problems in the quality of EPA's data quality and analysis of enforcement and compliance information. A data quality survey, widely distributed within EPA Headquarters and Regions and to nine states, solicited respondents' views on the nature and extent of enforcement and compliance data problems. A subsequent Strategic and Tactical Automation Plan, developed to address these problems and criticisms, supports the Environmental Compliance Initiative and other data management improvements. Regional reviews of data quality of enforcement and compliance information will continue in 1999.

The Sector Facility Indexing Project produced a data quality findings document for AFS, PCS and RCRIS which offers specific guidance for use in QA/QC procedures.

Information on the application of the self-policing policy, as well as targeted assistance, is tracked manually. The enforcement and compliance assurance program will complete the assessment of recording and producing information on the self-policing policy in DOCKET.

The enforcement program publishes Federal Register Notices for all Environmental Impact Statements (EISs) received by EPA. EPA regions review and comment on all EISs.

The EPA Inspector General in 1997 addressed problems states have identifying and reporting of Clean Air Act significant violators, which have impaired EPA's ability to evaluate the levels of noncompliance in that program. As follow up, the enforcement and compliance assurance program is preparing trend analyses using information in the AFS to identify states most likely to have problems.

In 1997 the enforcement and compliance assurance program also assessed its 1996 targeted compliance assistance data and developed a series of recommended improvements. The program implemented several improvements in 1997 and 1998 to manually track compliance assistance data. The program continues to assess the suitability of tracking targeted compliance assistance in the national database systems.